

MINUTES
ZONING COMMISSION
JUNE 5, 2013 – 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Regular members present: Marquardt, Sutherland, French, Sayer
Alternate members present:
Absent: Hudecek
Staff present: Glemboski, Murphy, Carey, Galetta

Chairperson Sutherland called the meeting to order at 7:01 p.m.

II. PUBLIC HEARING

1. REGA #13-01, Proposed Zoning Regulation Text Amendments to Section 1.1 (Purpose & Authority), Section 8.3-1 through 8.3-12 (Special Permit Requirements) and Section 8.4-5 (Site Plan Objectives)

The Public Hearing was opened at 7:02 p.m. with Chairperson Sutherland reading the legal ad.

Staff gave a brief history of the proposed text amendments being discussed by the Commission. OPDS and the Commission worked over the last six months to revise Sections 8.3-1 through 8.3-12 for Special Permit regulations. Comprehensive changes are proposed to most portions of Section 8.3., including updating the criteria section, for consistency with POCD, and upgrading the language for current administrative processing of applications.

The Commission had asked staff to incorporate Connecticut General Statute Section 8-2(b), dealing with Long Island Sound, into the Zoning Regulations. The Town Attorney provided OPDS with suggested language for the text based on his research into the history of the Statute. Staff drafted changes, using this language, to Section 1.1 (Purpose & Authority), Section 8.3-8H (Special Permit Criteria), and Section 8.4-5 (Site Plan Objectives). The Commission made its own revisions to the draft changes and moved forward to a formal Zoning Regulation Amendment application.

The Town Attorney was consulted about the changes made by the Zoning Commission regarding CGS 8-2(b) and subsequently issued a memo providing an opinion on the implications of the changes, which was also attached to the application.

Planning Commission comments were read into the record. The Planning Commission supports the proposed REGA13-01 with the following recommendations; to adopt the Town Attorney's language, for Sections 8.3-8H and 8.4-5J, and to require less than formal reports for Section 8.3.8G. The Planning Commission did not make a recommendation regarding changes to Section 1.1

A letter from Senior Environmental Analyst David Kozak of CT Department of Energy and Environmental Protection - Long Island Sound Program (CTDEEP-OLISP) was read into the record. The letter stated that CTDEEP-OLISP found the amendments to be consistent with goals and policies of the CT Coastal Management Act and commended the Commission for identifying the protection of Long Island Sound as a recognized purpose of its Zoning Regulations.

Comments from the Town Attorney, Southeastern Connecticut Council of Governments, Economic Development Commission, Conservation Commission, Inland Wetland Agency and the City of Groton were noted by Staff. A letter from Sidney Van Zandt in favor of the proposed text amendments was also read into the record by Staff.

Staff distributed some proposed changes based on the Town Attorney's comments and Planning Commission's comments to revert back to the original Town Attorney recommended language. There was no recommended change to Section 1.1.

The language of the Long Island Sound section was reviewed and discussed at length. The Commission questioned the difference between the Town Attorney's language "be met by" and their proposed text "include". Attorney Cary stated that there is a crucial difference in that using "include" will open the Commission up to future disputes that cannot be foreseen at this juncture. He has looked into the history of CGS 8-2(b) to research why it was enacted and when. From the time when it came about in 1991, DEEP and other agencies have crafted regulations with some going well beyond zoning. He suggested that if the Commission feels his proposed language is too limiting they might make another regulation to address their concerns. He also suggested that the paragraphs be separated by using a small (a) in front of the first paragraph and a small (b) in front of the second paragraph for Section 8.3-8H.

Chairperson Sutherland asked for public comments for or against the proposed amendment.

Jim Furlong, 57 Fishtown Lane, spoke in favor of using the Zoning Commission's language as written.

The Commission asked the Town Attorney if other sections of the Zoning Regulations could be also referenced in Section 8.3-8H.

The Commission determined that if additional changes are to be made then the hearing should be left open.

The Commission continued the public hearing to July 3, 2013.

2. REGA #13-03, Proposed Zoning Regulation Text Amendments to Sections 6.6-2, 6.6-7 and 6.6-9 (Flood Protection Regulations)

The Public Hearing was opened at 8:14 p.m. with Chairperson Sutherland reading the legal ad.

Staff noted that the Federal Emergency Management Agency is revising the Flood Insurance Rate Map panels associated with the coastal re-delineation project for New London County. In order for the Town to remain eligible to participate in the National Flood Insurance Program the revised regulations must be adopted. CTDEEP reviewed the existing regulations and the proposed language modifications include changes that are necessary for minimum compliance as well as other optional changes.

The letter from David Kozak of the CT Department of Energy and Environmental Protection - Long Island Sound Program was read for the record.

No comments from the Planning Commission, Economic Development Commission, Conservation Commission, Inland Wetland Agency, the Town Attorney, Southeastern Connecticut Council of Governments, and the City of Groton, were noted by Staff.

Staff reviewed the required and the optional changes with the Commission. The definition of “substantial damage” was discussed as an optional change. Staff suggested that if the Commission isn’t sure about the change for “substantial damage” at this time they may want to wait and work on it more through the POCD process.

Murphy stated that because of the Town of Groton’s terrain our building officials have not seen this as a problem; therefore, the Town is somewhat neutral on it.

Chairperson Sutherland asked for comments for or against and there were none.

Chairperson Sutherland declared the public hearing closed.

III. APPROVAL OF THE MINUTES OF meeting of May 1, 2013.

MOTION: To approve the minutes of May 1, 2013 as amended.

Motion made by French, seconded by Marquardt, so voted unanimously.

IV. CONSIDERATION OF PUBLIC HEARING

1. REGA #13-01, Proposed Zoning Regulation Text Amendments to Section 1.1 (Purpose & Authority), Section 8.3-1 through 8.3-12 (Special Permit Requirements) and Section 8.4-5 (Site Plan Objectives)

MOTION: To continue the hearing to the next regularly scheduled meeting.

Motion made by French, seconded by Marquardt, so voted unanimously.

2. REGA #13-03, Proposed Zoning Regulation Text Amendments to Sections 6.6-2, 6.6-7 and 6.6-9 (Flood Protection Regulations)

MOTION: The Town of Groton Zoning Commission adopts with modification, zoning regulation text amendment application #REGA13-03, amendments to Sections 6.6-2, 6.6-7 and 6.6-9 of the zoning regulations (Flood Protection Regulations), pursuant to the following findings and reasons for approval:

1. These amendments are consistent with and implement the Town’s 2002 Plan of Conservation and Development and Municipal Coastal Program, with particular regard to the protection of the environment and public safety.
2. These amendments are required by the Federal Emergency Management Agency as a precondition of the Town’s continued participation in the National Flood Insurance Program (NFIP) and must be effective no later than August 5, 2013.

3. The proposed amendments have been reviewed and approved by the State DEEP, as agent for the NFIP program.
4. These amendments are made in accordance with a comprehensive plan and provide for reasonable consideration of the environment in accordance with the provisions of CGS 8-2. The State of Connecticut Department of Energy and Environment – Office of Long Island Sound Program (CTDEEP-OLISP) has reviewed the proposed amendments and has deemed them consistent with applicable provisions of the State’s Coastal Zone Management Act.
5. The Commission notes that this action includes adoption of the “optional” language in Section 6.6-7B for use of the Coastal Jurisdiction Line (CLJ).
6. The Commission notes that this action specifically excludes the “optional” language for Section 6.6-9 for change in the definition of “Substantial Damage” and excludes additional regulations for construction in the Limit of Moderate Wave Action (LiMWA) at this time.

The effective date of this amendment shall be July 1, 2013

Motion made by Marquardt, seconded by French, so voted unanimously

V. PUBLIC COMMUNICATIONS – None

VI. OLD BUSINESS

1. Discussion of Revisions to Zoning Regulations for Buildable Land Definition and WRPD

Staff noted that she had no comments.

Commissioner French requested that the Special Permit #241 extension be heard out of order due to the lateness of the hearing. Chairperson Sutherland moved to do so.

2. POCD Update Report

Staff reported that the next meeting of the Steering Committee is Thursday, June 20. They will be discussing the municipal coastal program.

3. Land Use Regulation Update Project

Sutherland noted that she has not received a response from the Director of OPDS yet and will have a report at a later date.

VII. NEW BUSINESS

1. Request for extension of Special Permit #241, Mark Hopkins, 53 West Main Street

Mark Hopkins briefly addressed the Commission to request an extension of Special Permit #241. He specifically discussed his proposal to locate a hot dog cart in front of Bank Square Books. The original permit from 2000 and an extension that was granted in 2011 were renewable without public hearing. The 2011 extension was granted with an end date of October of 2011 due to the start of the Mystic Streetscape project.

The present applicant only intends to operate the cart in the evenings from 8:00 p.m. to 12:00 a.m. to accommodate visitors strolling the streets of downtown Mystic. The cart will only operate when the bookstore is closed and does not intend to interfere with traffic. Hopkins thinks it is a good fit for downtown and that he will not be competing with area restaurants as his main menu item is a hot dog.

Commissioner French asked how litter will be dealt with. The applicant intends to keep things clean and clean up daily. They will do whatever they can to minimize litter.

Commissioner Sayer had several questions for the applicant to address: (1) how will the cart be put in place; (2) how long will it take to place it at the location; (3) where does the hot dog water go at end of night; (4) and, where does the vendor go to the restroom?

Hopkins stated that one person will use it as a pushcart that will take less than a minute to pull up curbside and set it out. There is a curb cut available at the desired location. He is licensed through LLHD which requires a 7-gallon waste tank. The tank will be dumped at the VFW of New London which serves as a base kitchen per LLHD requirements.

The applicant believes it will enhance the use and enjoyment of the public area.

Staff noted that the original Special Permit hours were set during the day and somewhat into the evening. The 2011 Extension ended in October because of the Streetscape. Staff is concerned about making certain that the hours not be modified. There is a pedestrian easement along the sidewalk in front of the bookstore and it is important that the area remain open for the public to pass. Additionally, if the cart is relocated the applicant would need to return to the Zoning Commission.

Although the extension request is not a public hearing, Chairperson Sutherland opened the forum for comments for or against. The following residents and/or merchants spoke in opposition of the application:

- Cheryl Robdeau, 81 High Street.
- Alison Mason, 239 Prospect Hill Groton.
- Heather Roach, 573 Fishtown Road.
- Unnamed Downtown Mystic Merchant.
- Shane Richard, owner of a barbershop located at 3 Pearl Street.
- Richard Carpenter owner of the Green Marble Coffee House.
- Tidal River Clothing, owner.
- Rod Desmarais, 81 High Street, President of Downtown Mystic Merchants Group.

Staff noted that the Commission must be cautious when trying to deal with competition relative to who can compete in the market and should base their decision on if they believe the proposal is consistent with the existing Special Permit #241.

MOTION: Denied the extension of Special Permit #241 for a single food vendor cart (Mark Hopkins) to be located at 53 West Main Street, due to inconsistency of the original special permit:

1. Operating hours are different;
2. Location of the cart is different.
3. Location of the cart due to new Streetscape Project;
4. New pedestrian easement in the area.

Motion made by Marquardt, seconded by French, so voted unanimously

2. Report of Commission - none
3. New Applications - none

VIII. REPORT OF CHAIR – none

IX. REPORT OF STAFF – none

X. ADJOURNMENT

Motion to adjourn at 9:28 p.m. made by French, seconded by Marquardt, so voted unanimously.

Mariellen French, Secretary
Zoning Commission

Prepared by Lynda Galetta
Office Assistant II